REMARKS

I. General

Claims 1-79 were pending in the present application, and all of claims 1-79 were rejected in the current Office Action (mailed September 23, 2003). The outstanding issues in the current Office Action are:

o   Claims 1-7, 11-14, 19-25, 29-31, 36-40, 42-48, 52-55, 60, 62-68, and 72-75 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 6,044,355 issued to Crockett et al. (hereinafter "*Crockett*");

o   Claims 8-10, 15-18, 26-28, 32-35, 49-51, 56-59, 69-71, and 76-79 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Crockett* in view of U.S. Patent Number 5,179,643 issued to Homma et al. (hereinafter "*Homma*"); and

o   Claims 41 and 61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Crockett* in view of U.S. Patent Number 6,584,191 issued to McPartlan et al. (hereinafter "*McPartlan*").

In response, Applicant respectfully traverses the outstanding claim rejections, and requests reconsideration and withdrawal thereof in light of the amendments and remarks presented herein.

II. Claim Amendments

Claims 19, 33, 35-38, 48-50, 56, 58, and 60 are amended herein, and claims 32, 34, and 68-71 are deleted without prejudice. More specifically, claim 19 is amended to include substantially the same limitations originally presented in claims 32 and 34 that depended from claim 19. Accordingly, dependent claims 32 and 34 have been deleted without prejudice herein. Further, claim 33 has been amended to depend from claim 19, rather than from now-deleted claim 32. Likewise, claim 35 has been amended to depend from claim 19, rather than from now-deleted claim 34.

Independent claim 36 is amended herein to recite "means for <u>gradationally</u> quantifying at least one attribute of said resources ... means for <u>gradationally</u> quantifying at

least one attribute desired by said at least one request; and means for determining at least one suitable resource for servicing said at least one request based at least in part on said at least one quantified attribute of said resources and said at least one quantified attribute desired by said at least one ~~request.~~ request, wherein said means for determining computes a difference between the quantified at least one attribute of said resources and the quantified at least one attribute desired by said at least one request to identify at least one of said resources that is suitable for servicing said at least one request." (wherein added language is shown underlined and deleted language is shown with strikethrough). For consistency with the above amendments to claim 36, claims 37, 38, 48-50, 56, and 58 are each amended herein to recite "gradationally" quantifying.

Independent claim 60 is amended herein to include the limitations originally presented in dependent claims 68-71. Because claim 71 originally depended from claim 70, which depended from claim 69, which depended from claim 68, which depended from independent claim 60, this amendment to claim 60 effectively rewrites claim 71 in independent form. That is, claim 71 has effectively been rewritten in independent form as independent claim 60. In view of this amendment to claim 60, claims 68-71 are deleted without prejudice herein.

Additionally, new claims 80-85 are added herein. No new matter is added by the claim amendments and additions presented herein above. For example, support for new claims 80 and 82 can be found at, *inter alia*, page 16, lines 24-27 of the present application, and support for new claims 81 and 83-85 can be found at, *inter alia*, page 18, lines 1-24 of the present application.

III. Claim Rejections Under 35 U.S.C. § 102(b) over *Crockett*

Claims 1-7, 11-14, 19-25, 29-31, 36-40, 42-48, 52-55, 60, 62-68, and 72-75 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Crockett*. To anticipate a claim under 35 U.S.C. § 102, a single reference must teach every element of the claim, *see* M.P.E.P. § 2131. As discussed further below, *Crockett* does not teach every element of the rejected claims, and therefore fails to anticipate such claims under § 102(b).

A. Independent Claim 1

First, *Crockett* fails to teach each and every element of independent claim 1, as discussed further below. Independent claim 1 recites, *inter alia*, "quantifying at least one attribute of said resources" and "quantifying at least one attribute desired by said at least one request" (emphasis added). *Crockett* fails to teach at least the above element of independent claim 1. More specifically, *Crockett* fails to teach quantifying at least one attribute of resources desired by a request. The specification of the present application provides: "[a]s used with reference to the present invention herein, 'quantifying' resource skills/attributes is intended to mean any type of quantification of resources beyond mere binary quantification described above" (emphasis added). Page 15, lines 7-9. Applicant respectfully reminds the Examiner that Applicant may be his own lexicographer, *Lear Siegler, Inc. v. Aerogrip Corp.*, 221 U.S.P.Q. 1025, 1031 (Fed. Cir. 1984). As with the prior art resource management schemes described in the present application, *Crockett* teaches utilizing a mere binary quantification of skills possessed by resources.

As described further below, *Crockett* teaches a skills-based scheduling system for telephone call centers, wherein a determination is made as to the skills possessed by each agent of a call center and the agents having a particular combination of skills are grouped into a "skill group." Further, *Crockett* teaches that calls are classified according to a "call type" based on a dialed number and (possibly) other information. In so designating a call as a "call type," *Crockett* appears to use a binary quantification of each call (e.g., either a call is assigned to a given call type or it is not). "In the paradigm of [*Crockett*], each agent has one or more identified skills that make the agent available to handle particular call types", which may be used to create a work schedule for the various agents such that the resources are efficiently used to provide service for various different call types of the call center. *See* column 5, lines 22-29 of *Crockett*. Thus, quantification of attribute(s) of resources desired by a request, *beyond mere binary quantification*, is not taught by *Crockett*.

Crockett teaches at column 2, lines 14-22:

> In a skills-based routing environment, on the contrary, the "matching" of calls to agents by the ACD becomes more sophisticated and thus complicated. Agents who have more than one skill no longer "belong" to a well-defined team that handles a restricted set of calls. Instead, the skills

definitions form "implicit" teams that overlap in complex ways. If, for example, a call center has 10 skills defined, then agents could in principle have any of 1024 possible combinations (2^{10}) of those skills.

Thus, the above portion of *Crockett* teaches that in a skills-based environment a binary quantification is made to reflect whether an agent possesses each of a given number of different skills (e.g., 10 different skills in the above example of *Crockett*). This is analogous to the example prior art scheme shown in FIGURE 3 of the present application, wherein each of agents Agent$_A$, Agent$_B$, and Agent$_C$ are specified as either possessing or not possessing (binary quantification) each of English, Spanish, and French language skills.

At column 5, lines 5-18, *Crockett* further teaches:

> According to the present invention, each of a plurality of agents to be scheduled in the call center has a combination of defined "skills." One or more agents are then organized into "skill groups," each including all scheduled agents having a particular sub-combination of skills. Thus, for example, agents in skill group A have skills 1, 2 and 3, wherein agents in skill group B have skills 2, 3 and 5, for instance. Skills designations may be further qualified, for example, as "primary" or "secondary" skills, or with some other designation of skill priority or degree of skill attainment. In the preferred embodiment, skill priorities are included when organizing agents into skill groups; in a particular skill group, all agents have the same skills at the same priority levels.

Thus, in the above-quoted portion, *Crockett* mentions that "[s]kills designations may be further qualified, for example, as 'primary' or 'secondary' skills, or with some other designation of skill priority or degree of skill attainment." However, without conceding that this teaching of *Crockett* provides for quantifying at least one attribute of resources as recited by claim 1, *Crockett* fails to teach quantifying at least one attribute desired by a request. For instance, at column 5, lines 18-29 *Crockett* teaches:

> It is further assumed that calls arriving at the call center may be classified according to so-called "call types" based on a dialed number and (possibly) other information, such as the calling number or some caller response to network prompts. In the paradigm of the present invention, each agent has one or more identified skills that make the agent available to handle particular call types. The principal goal of the invention is to create a work schedule for that agent (and other agents scheduled to work at the same time during a given scheduling interval) that maximizes the quality of service offered by the call center while making efficient use of call center resources.

In this manner, *Crockett* does not quantify an attribute of a resource (agent) desired by a request (caller) beyond mere binary quantification. Instead, a caller is categorized into one of a plurality of different call types without quantifying the attribute of a resource desired by the caller. The principal goal of *Crockett* is to provide a scheduling mechanism for scheduling agents in a call center to ensure that sufficient coverage of different call types are provided by the agents scheduled during a given work period. Thus, while the attributes of resources may be qualified as "primary," "secondary," etc. in order to aid in making scheduling decisions in *Crockett* (e.g., to identify the resources to schedule during a given work period to provide sufficient coverage of the various different call types), the resource attributes desired by a caller are not so qualified, but are instead merely assigned to one of different call types.

That is, different call types are pre-defined in *Crockett*, and callers are assigned to a given call type. Resource attributes may be qualified as "primary," "secondary," etc. in order to aid in making scheduling decisions in *Crockett*. For instance, a resource having "X" as its primary attribute and "Y" as a secondary attribute may be available for servicing call types needing either attribute X or attribute Y. *Crockett* teaches grouping the resources into "skill groups" based on their respective attributes/skills, and using this information for scheduling resources for different work periods so that each of different call types can be serviced during the different work periods. Again, *Crockett* does not teach quantifying the attribute(s) desired by a request (caller).

As an example of *Crockett's* scheduling system, suppose an agent has English as its first (native) language and also knows Spanish. The agent may have English specified as its "primary" language with Spanish specified as its "secondary" language. This information may be used in scheduling agents during a given work period to ensure that sufficient coverage is available for both English and Spanish call types. For instance, the agent having Spanish as a secondary language may be used for overflow or for coverage of the Spanish call types while other Spanish-speaking agents take lunch breaks, etc. Thus, this qualification of resource attributes is useful in *Crockett's* primary goal of scheduling resources. However, when a caller calls the call center, the attributes desired by the caller are not quantified beyond mere binary quantification. For instance, a caller is presumably assigned to a call type of English or a call type of Spanish in the above example, and it is not further quantified

as to the degree of English or Spanish skills desired. Thus, *Crockett* fails to teach quantifying attributes desired by a request as recited by independent claim 1.

In view of the above, *Crockett* fails to teach each and every element of independent claim 1, and therefore *Crockett* does not anticipate independent claim 1 under 35 U.S.C. § 102(b).

B. Dependent Claims 2-7 and 11-14

Further, dependent claims 2-7 and 11-14 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Crockett*. In view of the above, Applicant respectfully submits that independent claim 1 is not anticipated under 35 U.S.C. § 102(b) by *Crockett* because *Crockett* fails to teach each and every element of such independent claim. Further, each of dependent claims 2-7 and 11-14 depend either directly or indirectly from independent claim 1, and thus inherit all limitations of independent claim 1. It is respectfully submitted that dependent claims 2-7 and 11-14 are allowable not only because of their dependency from independent claim 1 for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compel a broader interpretation of the respective base claim from which they depend).

For example, dependent claim 4 recites "wherein said resources include resources within a computer system", and dependent claim 5, which depends from claim 4, further recites "wherein said resources include resources selected from the group consisting of: data input resources, data output resources, data storage resources, and data processing resources." *Crockett* fails to teach "determining at least one suitable resource for servicing said at least one request" (Claim 1) wherein the resources are resources within a computer system as in claims 4 and 5. Rather, *Crockett* only addresses assigning agents in a call center for servicing calls having corresponding call types.

The Examiner appears to assert in the current Office Action that the agents of *Crockett* are resources of a computer system, such as those of claims 4 and 5. For instance, at page 3 of the current Office Action, the Examiner asserts that "Crockett teaches that the agents include resources selected from the group consisting of skills ... 'agents' reads on the claim 'resources' and 'skills' reads on the claim 'data input resources, data output resources,

data storage resources, and data processing resources'". Applicant respectfully submits that reading the agents of *Crockett* as the recited computer system resources of claims 4 and 5 is unreasonable. For instance, *Crockett's* principle goal is scheduling agents within a call center. *Crockett* is clearly directed to staffing of human agents (*see e.g.,* col. 1, line 5 – col. 2, line 63), and does not address determining computer resources for servicing a request, such as those recited by claims 4 and 5. Thus, Applicant respectfully submits that *Crockett* fails to teach every element of claims 4 and 5, and therefore does not anticipate those claims under 35 U.S.C. § 102(b).

C. Independent Claim 36

As amended herein, independent claim 36 recites, *inter alia,* "means for gradationally quantifying at least one attribute of said resources ... means for gradationally quantifying at least one attribute desired by said at least one request ... and means for determining at least one suitable resource for servicing said at least one request based at least in part on said at least one quantified attribute of said resources and said at least one quantified attribute desired by said at least one request, wherein said means for determining computes a difference between the quantified at least one attribute of said resources and the quantified at least one attribute desired by said at least one request to identify at least one of said resources that is suitable for servicing said at least one request" (emphasis added). *Crockett* fails to teach at least the above elements of claim 36.

First, Crockett fails to teach gradationally quantifying at least one attribute desired by said at least one request. As described above with claim 1, Crockett teaches classifying received calls into call types. The at least one attribute desired by a request (e.g., a call) is not gradationally quantified in Crockett.

Additionally, Crockett does not teach a means for determining at least one suitable resource for servicing a request "wherein said means for determining computes a difference between the quantified at least one attribute of said resources and the quantified at least one attribute desired by said at least one request to identify at least one of said resources that is suitable for servicing said at least one request." Again, Crockett does not quantify the at least one attribute desired by a request (call), and it thus fails to teach computing a different between the quantified attribute(s) desired and the quantified attribute(s) of the resources to

identify at least one of the resources that is suitable for servicing a request.

In view of the above, *Crockett* fails to teach each and every element of independent claim 36 as amended herein, and therefore *Crockett* does not anticipate independent claim 36 under 35 U.S.C. § 102(b).

D. Dependent Claims 37-40, 42-48, and 52-55

Further, dependent claims 37-40, 42-48, and 52-55 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Crockett*. In view of the above, Applicant respectfully submits that independent claim 36 is not anticipated under 35 U.S.C. § 102(b) by *Crockett* because *Crockett* fails to teach each and every element of such independent claim. Further, each of dependent claims 37-40, 42-48, and 52-55 depend either directly or indirectly from independent claim 36, and thus inherit all limitations of independent claim 36. It is respectfully submitted that dependent claims 37-40, 42-48, and 52-55 are allowable not only because of their dependency from independent claim 36 for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compel a broader interpretation of the respective base claim from which they depend).

IV. Claim Rejections Under 35 U.S.C. § 103(a) over *Crockett* in view of *Homma*

A. Independent Claim 19

As amended herein, independent claim 19 recites, *inter alia*, "quantifying at least one functional attribute of said resources, wherein said quantifying said at least one functional attribute of said resources includes <u>grading said at least one functional attribute of each of said resources along a scale</u>" (emphasis added) and "quantifying said at least one functional attribute desired by said at least one request, wherein said quantifying said at least one functional attribute desired by said at least one request includes <u>grading said at least one functional attribute of each of said resources along a scale</u>" (emphasis added). The Examiner concedes in the current Office Action that *Crockett* fails to teach this element (*See* rejection of claims 32 and 34 in item 5 on page 8 of current Office Action). However, the Examiner submits that *Homma* "teaches grading the at least one attribute of each of the resources along a scale", and concludes that "it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify Crockett to allow grading the at least one attribute of each of the resources along a scale as taught by Homma" with the motivation for the modification being "to provide the analysis of the attribute information." Page 8 of current Office Action.

To establish a prima facie case of obviousness, three basic criteria must be met. *See* M.P.E.P. § 2143. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. Without conceding the second criteria, Applicant respectfully asserts that the rejection does not satisfy the first and third criteria, as discussed further below.

i. Combination fails to teach or suggest all elements of claim 19

Homma fails to teach "grading said at least one functional attribute of each of said resources along a scale." *Homma* teaches a method of multi-dimensional analysis and display for a large volume of record information items, such as merchandise information. As discussed further below, *Homma* teaches segmenting a display and arranging information records having a high similarity close to each other on the segmented display. While *Homma* teaches analyzing record information, such as merchandise information, that have attributes (such as brands of the merchandise, classifications in the stores, manufacturers, colors, sizes, prices, materials, and types; *see* col. 8, lines 46-48) so as to organize the information into a segmented display such that similar records are arranged close to each other, *Homma* fails to teach or suggest grading a functional attribute of a resource along a scale.

Rather, *Homma* provides a method of displaying record information so that certain types of information can be recognized more easily on the display. For instance, Homma provides:

> Assume that N record information items (or records) are present on the computer system. Merchandise information is considered as an example of the record information items. Each record information item includes attribute information and information to be displayed on a screen. ... The display screen is segmented into N regions and the N record information items are displayed in the respective segmented regions. ... The segmented regions on

the display screen are arranged such that the higher the similarity among the record information items is, the shorter the distance between the corresponding segmented regions is. Column 3, line 67 - Column 4, line 20.

Further, at column 7, lines 12-23, *Homma* teaches:

> In accordance with the present embodiment, when a large volume of record information which the is stored in the computer system is to be displayed on the segmented screen by colors and patterns, the information having high similarity is are arranged closely to each other so that the records of abnormal contents and the trend of the record group comprising the information having a high similarity are readily recognized. The information may be allotted to the display areas (the display areas have significances) so that the types of information which can be recognized at a glance may be increased.

Homma does not teach or suggest grading functional attributes of resources along a scale, but instead teaches a system and method for displaying collected information records such that the records that have similar information are arranged close together on a display screen (to aid in recognition of trends, abnormalities, etc. in the collected information records). Thus, *Homma* fails to teach or suggest at least this element of independent claim 19. Because neither *Crockett* (as conceded by the Examiner) nor *Homma* teach or suggest grading functional attributes of resources along a scale, the combination of these references fails to teach or suggest this element of claim 19.

Further, *Homma* fails to teach or suggest "receiving at least one request for said at least one functional attribute" as recited by claim 19, and it fails to teach or suggest "quantifying said at least one functional attribute desired by said at least one request". Again, *Homma* is directed to displaying collected information records such that the records that have similar information are arranged close together on a display screen, and it does not teach or suggest receiving a request for functional attribute(s) and quantifying the functional attribute(s) desired by the request.

Further, claim 19 recites "based at least in part on said quantifying steps, determining at least one suitable resource for servicing said at least one request." Neither *Crockett* nor *Homma* teach or suggest determining at least one suitable resource for servicing a request based at least in part on the quantifying steps (which include "grading said at least one functional attribute of each of said resources along a scale" as discussed above). For

instance, while *Homma* teaches arranging collected record information on a display screen, it fails to teach or suggest determining at least one suitable resource for servicing a request based at least in part on grading functional attribute(s) of resources along a scale. Similarly, *Crockett* fails to teach or suggest determining at least one suitable resource for servicing a request based at least in part on grading functional attribute(s) of resources along a scale. Accordingly, the applied combination of *Crockett* and *Homma* fails to teach or suggest this further element of claim 19.

ii. Lack of Motivation for combining *Homma* with *Crockett*

Further, it is well settled that the fact that references can be combined is not sufficient to establish a prima facie case of obviousness, *see* M.P.E.P. § 2143.01. The Examiner contends that it would have been obvious to combine *Homma* with *Crockett* "to provide the analysis of the attribute information." The language of the recited motivation is circular in nature, stating that it is obvious to make the combination because it is obvious to achieve the result (i.e., the recited motivation states that it is obvious to modify *Crockett* to include the analysis system of *Homma* to provide the analysis of *Homma*). Such language is merely a statement that the *Crockett* and *Homma* references can be combined, and does not state any desirability for making the combination. The mere fact that references can be combined or modified does not render the resultant combination or modification obvious unless the prior art also suggests the desirability of the combination or modification. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990), as cited in M.P.E.P. § 2143.01. Thus, the motivation provided by the Examiner is improper, as the cited prior art reference must establish the desirability for making the modification.

As described above, *Homma* is directed to arranging collected information on a display, and fails to teach or suggest application of any part of its analysis to functional attributes of resources (such as the agents of a call center in *Crockett*) for determining suitable resource(s) for servicing a request. Neither *Homma* nor *Crockett* provide any motivation for applying any part of the analysis of record information of *Homma* to functional attributes of agents of a call center. Indeed, *Crockett* provides a sufficient technique for grouping agents into "skill groups" without the analysis of *Homma*. It is unclear what benefit the further analysis of *Homma*, if implemented in the system of *Crockett*, would provide (other than providing a method for displaying the information about

the different agents of the call center on a segmented display screen, if so desired).

Because the applied references themselves fail to provide any motivation for being combined in the manner suggested by the Examiner, it appears the Examiner is using impermissible hindsight in combining the references. The teaching or suggestion to make the applied combination must be found in the prior art, not in Applicant's disclosure, *see* M.P.E.P. § 2143, citing *In re Vaeck*, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). As stated by the Federal Circuit:

> It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992) (quoting *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988)).

Hindsight is almost always perfect. It is insufficient to prove that at the time of the claimed invention, the separate elements of the device were present in the known art. Rather, there must have been some explicit teaching or suggestion in the art to motivate one of even ordinary skill to combine such elements so as to create the same invention. *See Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 119 F.3d 953, 957, 43 U.S.P.Q.2d 1294 (Fed. Cir. 1997). Such a teaching or suggestion is absent from the references applied by the Examiner. Thus, the motivation to modify *Crockett* with the system of *Homma* as provided by the Examiner is improper, as the motivation must be described in a prior art reference and must detail the benefits of such a modification.

In view of the above, independent claim 19 is not obvious under 35 U.S.C. § 103(a) over the applied combination of *Crockett* and *Homma*.

B. Dependent Claims 20-35

Further, dependent claims 20-35 depend either directly or indirectly from independent claim 19, and thus inherit all limitations of independent claim 19. It is respectfully submitted that dependent claims 20-35 are allowable not only because of their dependency from independent claim 19 for the reasons discussed above, but also in view of their novel claim

features (which both narrow the scope of the particular claims and compel a broader

interpretation of the respective base claim from which they depend).

C. Independent Claim 60

As amended herein, independent claim 60 recites, *inter alia*:

> memory for storing computer executable program code, wherein said
> computer executable program code includes code executable to quantify at
> least one attribute of said resources, code executable to quantify at least one
> attribute desired by said at least one request, and code executable to determine
> at least one suitable resource for servicing said at least one request based at
> least in part on said at least one quantified attribute of said resources and said
> at least one quantified attribute desired by said at least one request;
> wherein said code executable to quantify at least one attribute of said
> resources further includes code executable to quantify "N" number of
> attributes of said resources and code executable to plot said quantified "N"
> number of attributes within an N-dimensional space;
> wherein said code executable to quantify at least one attribute desired
> by said at least one request further includes code executable to plot said
> quantified at least one attribute desired by said at least one request within said
> N-dimensional space;
> <u>wherein said code executable to determine at least one suitable</u>
> <u>resource includes code executable to calculate the distance between said</u>
> <u>quantified "N" number of attributes of said resources and said quantified at</u>
> <u>least one attribute desired by said at least one request to determine at least one</u>
> <u>suitable resource for servicing said at least one request</u> (emphasis added).

The Examiner concedes in the current Office Action that *Crockett* fails to teach the

above elements (*See e.g.,* rejection of claims 69-71 in item 4 on pages 6-8 of current Office

Action). For instance, the Examiner concedes that *Crockett* fails to teach calculating the

distance between said quantified "N" number of attributes of said resources and said

quantified at least one attribute desired by said at least one request to determine at least one

suitable resource for servicing said at least one request. Page 7 of current Office Action.

However, the Examiner submits that *Homma* "teaches calculating the distance

between the quantified 'N' number of attributes of the resources and the quantified at least

one attribute desired by the at least one request to determine at least one suitable resource for

servicing the at least one request". Page 7 of current Office Action. "Thus, it would have

been obvious to one of ordinary skill in the art at the time the invention was made to modify

Crockett to allow calculating the distance between the quantified 'N' number of attributes of

the resources and the quantified at least one attribute desired by the at least one request to determine at least one suitable resource for servicing the at least one request as taught by Homma" with the motivation for the modification being "to provide the analysis of the attribute information." Pages 7-8 of current Office Action.

To establish a prima facie case of obviousness, three basic criteria must be met. *See* M.P.E.P. § 2143. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. Without conceding the second criteria, Applicant respectfully asserts that the rejection does not satisfy the first and third criteria, as discussed further below.

i. Combination fails to teach or suggest all elements of claim 60

First, *Homma* fails to teach or suggest "wherein said code executable to quantify at least one attribute desired by said at least one request further includes <u>code executable to plot said quantified at least one attribute desired by said at least one request within said N-dimensional space</u>" (emphasis added). For instance, as described above with claim 19, *Homma* fails to teach or suggest receiving a request and thus fails to teach or suggest quantifying attribute(s) desired by a request. As such, *Homma* fails to teach or suggest plotting the quantified attribute(s) desired by a request within the recited N-dimensional space. The Examiner concedes that *Crockett* fails to teach or suggest this element, and thus the applied combination of *Crockett* and *Homma* fails to teach or suggest this element of independent claim 60.

It should be understood from the specification of the present application that "plotting," as used in the present application, need not include displaying on a display, but may instead assign values for quantifying the attribute(s) desired by the request for "plotting" those values in computer-readable form, *see e.g.,* page 24, line 20 – page 27, line 16 of the present application (e.g., plotting values within a bifurcated tree or table).

The applied combination of *Crockett* and *Homma* further fails to teach or suggest "wherein said code executable to determine at least one suitable resource includes <u>code</u>

<u>executable to calculate the distance between said quantified "N" number of attributes of said</u> <u>resources and said quantified at least one attribute desired by said at least one request to</u> <u>determine at least one suitable resource for servicing said at least one request</u>" (emphasis added). To the extent that *Homma* teaches computing the distance between information records, it fails to teach or suggest calculating the distance between quantified attributes of resources the quantified attributes desired by a request. Again, as discussed above, *Homma* fails to quantify attributes desired by a request. Any distance calculated in *Homma* is the distance between collected information records, not a distance between quantified attributes of resources and quantified attributes desired by a received request. The Examiner concedes that *Crockett* fails to teach or suggest this element, and thus the applied combination of *Crockett* and *Homma* fails to teach or suggest this element of independent claim 60.

ii. Lack of Motivation for combining *Homma* with *Crockett*

For the reasons discussed more fully above in connection with claim 19, Applicant respectfully submits that the applied references provide no motivation for making the combination suggested by the Examiner.

In view of the above, independent claim 19 is not obvious under 35 U.S.C. § 103(a) over the applied combination of *Crockett* and *Homma*.

D. Dependent Claims 61-67 and 72-79

Further, dependent claims 61-67 and 72-79 depend either directly or indirectly from independent claim 60, and thus inherit all limitations of independent claim 60. It is respectfully submitted that dependent claims 61-67 and 72-79 are allowable not only because of their dependency from independent claim 60 for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compel a broader interpretation of the respective base claim from which they depend).

V. Claim Rejections Under 35 U.S.C. § 103(a) over *Crockett* in view of *McPartlan*

Claims 41 and 61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Crockett* in view of *McPartlan*. As described above, independent claims 36 and 60 are believed to be allowable over the applied art. Dependent claims 41 and 61 each depend

either directly or indirectly from one of independent claims 36 and 60, and thus inherit all limitations of their respective independent claims. It is respectfully submitted that dependent claims 41 and 61 are allowable not only because of their dependency from their respective independent claims for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compel a broader interpretation of the respective base claim from which they depend).

VI. New Claims 80-85

New claims 80-82 depend from independent claim 1, and new claims 83-85 depend from independent claim 19. As discussed above, Applicant submits that independent claims 1 and 19 are allowable over the art of record. Claims 80-82 and 83-85 inherit all limitations of their respective independent claims. It is respectfully submitted that dependent claims 80-82 and 83-85 are allowable not only because of their dependency from their respective independent claims for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compel a broader interpretation of the respective base claim from which they depend).
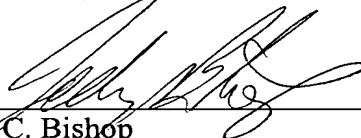
VII. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 06-2380, under Order No. 47524/P102US/09901295 from which the undersigned is authorized to draw.

Dated: December 23, 2003   Respectfully submitted,

By_____
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